

NOTICE OF PROPOSED CLASS ACTION SETTLEMENTS of Munoz et al. v. Sacramento Council of Governments, et al., Case No. C-05 01525 JSW, United States District Court for the Northern District of California.

TO: DEAF OR HARD-OF-HEARING PERSONS USING CALIFORNIA ROADS AND HIGHWAYS IN ALL COUNTIES WHERE EMERGENCY ROADSIDE CALL BOXES ARE LOCATED

Plaintiffs in a class action brought on behalf of deaf and hard-of-hearing motorists (“Plaintiffs”) have entered into class action settlements with defendants the California Department of Transportation and the California Highway Patrol involving access to call boxes. If you are a member of the Settlement Class, as defined below, you must act to preserve your right to sue these defendants for injunctive or declaratory relief regarding access to call boxes, or to be heard at the settlement hearing of the above-entitled class action.

The above-entitled class action seeks injunctive and declaratory relief on behalf of deaf and hard-of-hearing motorists against the California Department of Transportation and Will Kempton, Director of Caltrans (collectively “Caltrans”), the California Highway Patrol and Mike Brown, Commissioner of the CHP (collectively “CHP”), and nine local government agencies called Service Authorities for Freeway Emergencies (“SAFEs”), alleging a denial of equal access to California highways and roads, and alleging discrimination and civil rights violations relating to roadside call boxes. This class action alleges that roadside call boxes must be equipped with TTYs, or comparable two-way communication devices, to provide full and equal access to deaf and hard-of-hearing persons under applicable federal and California law. The primary relief sought by this class action is for all roadside call boxes to include TTYs or comparable two-way communication devices. The class action lawsuit is entitled Munoz et al. v. Sacramento Council of Governments, et al., Case No. C-05 01525 JSW, in the United States District Court for the Northern District of California (“Munoz lawsuit”). To date, no class has yet been certified in the Munoz lawsuit, and the proposed settlements contemplate class certification for settlement purposes only.

Defendants Caltrans and the CHP deny all liability and allegations of wrongdoing asserted against them in the Munoz lawsuit. Among other defenses, Caltrans and the CHP assert that roadside call boxes are the legal responsibility of, and programs operated by, the SAFEs, not Caltrans and the CHP. However, after arms-length

negotiation and mediation conducted before a magistrate judge, the settling parties agree that the proposed class action settlements are the best way to resolve the Munoz lawsuit between Plaintiffs and Caltrans and the CHP. Counsel for Plaintiffs have determined that the proposed settlements are fair, reasonable and adequate, and the relief obtained from Caltrans and the CHP via the settlements constitutes important and valuable changes in those defendants' conduct which otherwise might not be obtained through continued litigation against them. The "Settlement Class" in each proposed class action settlement is defined as all deaf or hard-of-hearing motorists using California roads or highways that have roadside call boxes and cannot fully use the call boxes unless they have TTYs (text telephones or teletypewriters for the deaf). If you are a member of the Settlement Class, then any claims you may have for injunctive and declaratory relief regarding hearing disability-based discrimination and civil rights violations by the CHP or Caltrans related to equal access to and effective communication at call boxes will be affected by these proposed settlements of the Munoz lawsuit.

PROPOSED SETTLEMENT

The main terms of the proposed class action settlement with Caltrans are that Caltrans shall adopt and implement written policies and procedures to:

- (a) Ensure that Caltrans will not approve of any SAFE implementation plans or programs for emergency roadside call boxes unless those call boxes are equipped with TTYs and any audible alerts or communications systems also use a visual alert or communications system. Caltrans must receive assurances from the requesting SAFE that the call boxes it maintains will be accessible no later than June 30, 2007.
- (b) Ensure that for defendants San Bernardino and Riverside County SAFEs, Caltrans will not approve of any SAFE implementation plans or system changes unless the SAFEs either: 1) equip their call boxes with TTYs, 2) assure they are in compliance with any settlement agreements related to this lawsuit, or 3) are continuing to defend the Munoz lawsuit.
- (c) Revise the Caltrans/CHP Call Box and Motorist Aid Guidelines ("Motorist Aid Guidelines") to include a requirement that call boxes be equipped with TTYs as set forth in the Draft Guidelines

for Accessible Public Rights-of-Way issued by the U.S. Access Board on June 17, 2002, as well as any additional requirements that are adopted when those guidelines are finalized.

- (d) Notify the Plaintiffs of the revision and seek their input on the proposed deaf access elements in the CHP/Caltrans Call Box and Motorist Aid Guidelines.
- (e) For a period of seven (7) years from the date of this settlement, the Caltrans will notify Plaintiffs' counsel of any changes in the motorist aid system, or any requests for approval of plans by any SAFE that would impact deaf access to the emergency roadside call boxes. Additionally, for the seven year period, Caltrans will provide a written update every six months of any significant activities or changes to the motorist aid system that may impact deaf and hard of hearing access to roadside call boxes.

The main terms of the proposed class action settlement with the CHP follows. The parties intend that compliance with the terms of the settlement will comply with the Americans with Disabilities Act and the Rehabilitation Act and applicable California law regarding deaf and hard-of-hearing persons' access to and use of call boxes. The parties further intend for this settlement to establish the CHP's standards of conduct regarding the subject matter of the Munoz lawsuit for seven years from the effective date of this settlement.

Under this settlement, the CHP shall adopt and implement written policies and procedures to:

- (a) Ensure that the CHP will not approve of any SAFE implementation plans or systems changes for emergency roadside call boxes unless those call boxes are equipped with TTYs and any audible alerts or communications systems also use a visual alert or communications system. CHP must receive assurances from the requesting SAFE that the call boxes will be accessible no later than June 30, 2007.
- (b) Ensure that for defendants San Bernardino County SAFE and Riverside County SAFE, the CHP will not approve any SAFE implementation plans or system changes requested by these SAFEs unless the requesting SAFE provides a written assurance that either: 1) its call boxes are in compliance with any agreement entered into between the SAFE and Plaintiffs, or 2) its call boxes

are in compliance with any Court order or judgment in the Munoz lawsuit, or 3) the requesting SAFE is still in litigation with the Plaintiffs in the Munoz lawsuit.

- (c) The CHP will continue to maintain equipment and systems, and will train its staff and dispatchers so that all of its communications centers will have the capability to handle TTY calls so as to ensure deaf and hard-of-hearing people equal opportunity to receive the same information and services as hearing people.
- (d) The CHP will revise the Motorist Aid Guidelines to specify that call boxes must comply with the ADA and must provide the same level of service for deaf and hard of hearing motorists as is provided to hearing motorists.
- (e) The CHP will notify Plaintiffs' Counsel of any proposed future changes in the CHP/Caltrans Guidelines that may impact deaf access to Call Boxes, for a period of seven (7) years from the Effective Date of Settlement.
- (f) For a period of seven years from the date of this settlement, the CHP will notify plaintiff's counsel of any changes in the motorist aid system, or any requests for approval of plans by any SAFE that would impact deaf access to the emergency roadside call boxes. Additionally, for the seven year period, the CHP will provide a written update every six months of any significant activities or changes to the motorist aid system that may impact deaf and hard of hearing access to roadside call boxes.

Also, as part of the proposed class action settlements, CHP and Caltrans have agreed that each will pay reasonable attorney's fees and costs incurred in bringing the Munoz lawsuit in the amount of \$30,000 to Class Counsel, who will file a request with the Court to award these amounts if it grants final approval to the proposed settlements.

OBJECTIONS TO PROPOSED SETTLEMENTS

The Court has given preliminary approval to these proposed settlements of the Munoz lawsuit. A final approval hearing will be conducted by the Court on **July 6, 2007** at 9:00 a.m. in Courtroom 2, 17th Floor of the Courthouse for the Northern District of California located at 450 Golden Gate Avenue, San Francisco to

evaluate the fairness of the proposed settlements, consider arguments in favor of and against the settlements, and decide whether to give final approval.

If you believe that you may be a member of the Settlement Class (as defined above), please contact Class Counsel identified below **IMMEDIATELY** to receive the complete SETTLEMENT AGREEMENTS or view copies on the Internet at www.deaflaw.org. If you wish to object to the proposed settlements or to speak at the fairness hearing, you must advise Class Counsel identified below in writing no later than 5:00pm on **June 15, 2007**. If the Court grants final approval of the settlements, **THOSE SETTLEMENTS WILL BE BINDING ON ALL SETTLEMENT CLASS MEMBERS. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS, YOUR RIGHT TO BRING A LAWSUIT AGAINST CALTRANS AND THE CHP WITH RESPECT TO DEAF AND HARD-OF-HEARING PERSONS' ACCESS TO CALL BOXES WILL BE AFFECTED. HOWEVER, THE PROPOSED SETTLEMENTS DO NOT AFFECT ANY INDIVIDUAL DAMAGES CLAIMS THAT ANY MEMBER OF THE SETTLEMENT CLASS MAY HAVE AGAINST THE CHP AND CALTRANS.**

HOW TO GET FURTHER INFORMATION

If you have a question regarding the Munoz lawsuit or the proposed settlements of the case, you should contact Class Counsel at:

California Center for Law and the Deaf
14895 E. 14th Street, Suite 220,
San Leandro, CA 94578
(510) 483-0922 TTY and Voice telephone

You may also find more information on the Internet website www.deaflaw.org, or inspect the Court's file regarding this case during business hours at the office of the Clerk of the Court, 450 Golden Gate Avenue, San Francisco, California.

DO NOT CALL OR WRITE TO THE COURT REGARDING THIS CASE